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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/779,691

02/18/2004

F. Thomson Leighton

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LAW OFFICE OF DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS, TX 75248

EXAMINER

DAILEY, THOMAS J

ART UNIT

PAPER NUMBER

2152

NOTIFICATION DATE

DELIVERY MODE

07/18/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mail@davidjudson.com

Office Action Summary	Application No. 10/779,691	Applicant(s) LEIGHTON ET AL.	
	Examiner THOMAS J. DAILEY	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/24/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 2-8 were added by the amendment filed on March 24, 2008.
2. Claims 1-8 are pending.

Response to Arguments

3. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Skene et al (US Pub. No. 2001/0052016), hereafter "Skene."
6. As to claim 1, Skene discloses a method for Internet content delivery, comprising:

establishing a content delivery network at network locations, the content delivery network comprising a set of content servers for serving content resources wherein a subset of the set of content servers is located at an Internet data center (Abstract and [0044]);

for each Internet Protocol (IP) address block from which requests for content resources are expected to be received, generating a candidate list of Internet data centers to be used to service the requests for content resources ([0091], lines 1-6, requests are directed to content servers which are determined by any of a number of metrics and [0094], lines 6-13, discloses where the appropriate servers are selected based up IP address blocks), wherein the candidate list of Internet data centers is generated using (i) geographic information from one or more Internet registry databases identifying a geographic location of the IP address block ([0092], and [0094], lines 6-13), (ii) BGP route information collected from BGP peers participating in BGP (BGP) sessions ([0091], lines 4-11,), (iii) autonomous system (AS) information ([0094]), and (iv) data collected from one or more network performance metric tests ([0091], lines 1-6); and;

for the IP address block, selecting at least one of the Internet data centers from the candidate list to be used to service the requests for content resources, wherein the selected Internet data center is written into a network map ([0094], lines 6-13);

providing the network map to a domain name service (DNS) associated with the content delivery network ([0092], database storing network map is provided to domain name services); and

in response to a DNS query initiated from a client browser and received at the domain name service associated with the content delivery network, using the network map to identify an Internet data center to be used to service a request for a content resource ([0098]-[0099]).

7. As to claim 2, Skene discloses the selecting step is performed by executing an algorithm ([0091]).
8. As to claim 3, Skene discloses the algorithm is a multi-commodity bipartite, min-cost flow algorithm ([0091]).
9. As to claim 4, Skene discloses the flow algorithm uses a graph that includes a first set of nodes, and a second set of nodes, ([0094], lines 7-14, there are various subnets, each subnets is a set of nodes) wherein a node of the first set of nodes represents an IP address block and a node of the second set of nodes represents a single link at an Internet data center on the list of candidate data centers ([0094], lines 7-14).

10. As to claim 5, Skene discloses a node of the first set of nodes is connected to a node of the second set of nodes by a link that has a communication cost associated therewith ([0091], lines 1-6).

11. As to claim 6, Skene discloses the BGP sessions include internal BGP (iBGP) sessions ([0091], includes ASN and therefore iBGP (i.e. BGP running on an autonomous system network)).

12. As to claim 7, Skene discloses the content resources include a web resource (Abstract).

13. As to claim 8, Skene discloses the selected Internet data center is nearby the IP address block ([0091]).

Conclusion

14. For additional prior art made of record and not relied upon but considered pertinent to applicant's disclosure see attached Notice of References Cited, Form PTO-892.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Dailey whose telephone number is 571-270-1246. The examiner can normally be reached on Monday thru Friday; 9:00am - 5:00pm.
18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2152

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TJD

/Bunjob Jaroenchonwanit/
Supervisory Patent Examiner, Art Unit 2152